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Miss S Samurai  
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Our reference: A61/hg/challenge

27 September 2006

**APPLICATION FOR THE GRANT OF A PREMISES LICENCE: "CHALLENGE SANDWICHES", 35 NORTH LANE, HEADINGLEY, LEEDS LS6 3HW**

On 18<sup>th</sup> September 2006 the Licensing Sub Committee heard an application by C2C Investment Limited, 20 Silverdale Road, Bradford BD5 8DR for the grant of a premises licence in respect of the premises known as "Challenge Sandwiches" 35 North Lane, Headingley, LS6 3HW.

The applicant sought the following:

Late Night Refreshment:

Sunday to Saturday 11:00 hours until 05:00 hours (the following day)

The applicant proposed to provide the service to the public during the following times should the application be granted:

Sunday to Saturday 11:00 hours until 05:00 hours (the following day)

The applicant also intended to operate the same hours during Bank Holiday periods

This letter represents the formal decision of the Sub Committee in respect of the application.

**Preliminary Procedural Issues**

The Sub Committee considered preliminary matters of a purely procedural nature. There were no declarations of interest made.

The Sub Committee then decided that the procedure for the hearing would not be varied. The Sub Committee also considered if the public should be excluded from any parts of the hearing.



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The Sub Committee decided to exclude the public from that part of the hearing where Members would deliberate on the application as presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

The Sub Committee permitted each party 10 minutes in which to make their case. This time limit was imposed having regard to the relevant Regulations and in the interests of consistency and the efficiency of business.

The Sub Committee then went on to consider the application.

### **The Hearing**

The Sub Committee considered the verbal submissions made by Miss Saba Samurai on behalf of the applicant, which addressed the application and the comments of the interested parties.

In determining the application the Sub Committee took into account written submissions from the applicant and the following members of the public who had objected to the application which were contained within the Licensing Officers' report and had been circulated to all the Parties prior to the hearing.

R Harkess	S Unsworth
D Ainsworth	R S Ainsworth
B Unsworth	C Unsworth
A Beaumont	B Frater

After considering the evidence and submissions the Sub Committee needed to satisfy itself that granting the licence would promote the licensing objectives.

In reaching this decision the Sub Committee had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the Council's own Licensing Policy.

In particular the Sub Committee took into account Sections 34 & 35 of the Act because these were the most relevant to the application and Chapter 7 of the Guidance relating to the prevention of crime and disorder, public nuisance and public safety

The Sub Committee then went on to consider the following paragraphs of the Licensing Policy as the Sub Committee took the view these paragraphs had bearing on the application.

11:05 to 11:10	Crime & Disorder
11:11 to 11:22	Public Safety
11:23 to 11:28	Public Nuisance

### **Reasons for the decision**

The following parties attended the hearing:

Miss S Samurai the applicant  
Mr B Unsworth a local resident

The Sub Committee noted that this was the first application for a Premises Licence for this site. Additionally the Sub Committee noted that although the premises was situated within the area of Cumulative Impact Policy for Headingley, the Policy did not apply to the provision of late night refreshment

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The Sub Committee noted that the following agreements had been made between the applicant and LCC Environmental Health Services over conditions proposed by them in order to prevent public nuisance

- Ensure that no nuisance is caused by noise or vibration emanating from the premises
- Noise from the premises shall be inaudible at the nearest noise sensitive premises after 23:00 hours. In order to meet this condition:
  - a) The kitchen door must not be opened after 23:00 hours except in an emergency
  - b) All deliveries after 23:00 hours shall be made through the front door of the shop

These conditions would be included in the applicant's Operating Schedule, and eventually the licence, should the application be granted.

The Sub Committee then heard the submission of Mr Unsworth who, with the Sub Committee's permission tabled two photographs of the rear area of the premises and bin storage. Mr Unsworth began by explaining he lived to the rear of the yard area shown in the photographs and that noise and litter were real concerns attributable to the premises.

Mr Unsworth stated that staff of the premises used the rear yard at their break times, and it was therefore currently in use until 05:00 hours. Furthermore he could hear noise generated from inside the premises when he was in his back garden. He confirmed the shop had a television and a radio and he could clearly hear that noise when the premise door was open. Additionally, the patrons of the shop who had already been to the local pubs created noise, which he could hear inside his home. He stated that although he had a triple glazed bedroom window, noise from within the shop could still be heard.

In answer to a query from the Sub Committee, Mr Unsworth confirmed that the premises was currently a sandwich shop, not a take-away but did remain open until 04:00/05:00 hours. He highlighted the fact that under current planning arrangements, he could not object to the use of the premises as a sandwich shop selling cold food, nor its hours of operation, however he could object to the proposed provision of hot food which would change the nature of the shop.

The Sub Committee then considered the verbal submissions made by Miss Samurai in support of the application. Miss Samurai began by stating she had been under the impression she would need to apply for another licence in order to sell hot food such as burgers, chips etc. She explained that the application for a Premise Licence had been made in order to sell warm food; it was their intention to continue to sell cold sandwiches which could be warmed at the request of customers.

Miss Samurai then dealt with the comments made by Mr Unsworth. She confirmed that under the terms of the current planning permission for the premises, no restrictions had been imposed with regards to the hours of operation, however hot food could not be sold. With regards to noise, she reported that the stereo had been removed from the premises in April when she had taken over the premises; therefore no radio was currently on the premises. A television had been in use, however it was now utilised for the CCTV system at the shop. Furthermore the back door of the shop was now kept closed to minimise noise.

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With regards to litter, Miss Samurai stated the photographs showed the alleyway to the side of the premises. The alleyway was not wholly owned by the applicant and not all of the bins shown or litter was attributable to this premises.

In answer to a question from the Sub Committee, Miss Samurai stated that most of the customers using the shop in the early hours of the morning came from the public house and club situated nearby which did not close until that time. She confirmed there were a number of hot food take-aways in the area already and she intended to match their opening hours. Miss Samurai also reported that she was aware that some of the other establishments were trading without the necessary permission or Licence.

In conclusion, Miss Samurai confirmed that the Notice of the application and advertisement for the application had been displayed correctly for the statutory period. This was confirmed by the Legal Adviser to the Sub Committee in response to a comment contained within Mr Unsworths' written submission that the application had not been served correctly. The Legal Adviser also took the opportunity to remind Members that the grant of a Premise Licence would allow the applicant to serve any hot food, as per a "take-away" establishment

### **The Decision**

The Sub Committee had regard to the submissions made by the applicant and noted the agreements made with LCC Environmental Health Services in advance of the meeting.

Members carefully considered the application having regard to the comments of the objectors and were concerned about the proximity of the premises to a residential area and the likely increase in noise and disturbance which would be caused by another take-away establishment operating in the area.

The Sub Committee resolved to refuse the application.

The Sub Committee considered that if the application was allowed, the premises would cause an unacceptable level of noise in a mainly residential area.

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

Appeals should be addressed to the Magistrates Court at:  
Clerk to the Justices  
Leeds Magistrates Court  
Westgate  
Leeds  
LS1 3JP

and accompanied by a copy of this decision letter and the court fee of £75.00.

Yours faithfully,

**Helen Gray**  
**Clerk to the Licensing Sub Committee**